

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DEVON ARCHER,

Defendant.

16-CR-371 (RA) (6)

ORDER

RONNIE ABRAMS, United States District Judge:

No later than August 11, 2023, the Government shall file a response to Defendant Archer's letter filed August 2, 2023. The Government's response should address: (1) why Mr. Archer should not remain on bail pending the Supreme Court's decision on his anticipated petition for *certiorari* pursuant to 18 U.S.C. § 3143(b); and (2) whether it would consent to the Court granting habeas relief and immediately proceeding to resentencing given the agreement of the parties that there was a two-point Sentencing Guidelines calculation error which was not raised by either party at sentencing, *see* Gov't Post-Argument Br., *United States v. Galanis*, No. 22-539 (2d Cir.), Dkt. 70, at 1.

Defendant Archer shall then file a letter no later than August 14, 2023, indicating: (1) whether he agrees to the Court's recharacterization of his motion as a petition for habeas relief under 28 U.S.C. § 2255, *see Adams v. United States*, 155 F.3d 582, 584 (2d Cir. 1998); and (2) whether he would consent to the Court granting habeas relief and immediately proceeding to resentencing given the Sentencing Guidelines calculation error.

SO ORDERED.

Dated: August 7, 2023
New York, New York



Hon. Ronnie Abrams
United States District Judge